

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

v.

JASON WALKER

Defendant.

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Cr. I.D. No. 0405000068

ORDER

Upon Consideration of Defendant's *pro se* Request for Transcripts - DENIED

Submitted: January 30, 2006

Decided: January 31, 2006

Defendant has filed a *pro se* motion for transcript of record, it appears:

(1) The record reflects that the defendant was found guilty, on July 28, 2005, of: Murder First Degree, Attempted Robbery First Degree (2 counts) and Possession of a Firearm During the Commission of a Robbery. Defendant now asks that he be furnished with transcripts, at the expense of the State, of “(A) All preliminary testimony (preliminary hearing), arraignment/bail status hearing, motion for proof positive hearing, office conferences, suppression hearing, motions to compel, motion for reargument and hearing, trial testimony including opening statements of the State and the defendant, jury selection, all side bar conferences or statements, office conferences during the trial, closing arguments of the State and the defendant and the courts instructions to the jury, charge to the jury, penalty phase instructions and interrogatory to jury, penalty hearing and and (sic) exceptions thereto; and (B) Defendant’s sentencing on October 7, 2005.

(2) There is no constitutional right to a free transcript for the purpose of preparing a

post-trial motion.¹

(3) Superior Court Criminal Rule 61(d)(3) states: “[t]he judge may order the preparation of a transcript of any part of the prior proceedings in the case needed to determine whether the movant may be entitled to relief.”²

(4) “It is within the discretion of the Judge who examines the motion and contents of the record to determine whether to order preparation of a transcript.”³

(5) This Court’s decisions in *State v. Doran*⁴ and *State v. Bordley*⁵ “make clear that when a defendant offers no factual basis and fails to clearly identify the fundamental rights he claims were violated, the Court will deny the motion.”⁶

(6) In the instant case, the defendant has offered no factual basis for his request. He has not made the requisite showing; therefore, the Defendant’s *pro se* request for a transcript is DENIED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: Loren C. Meyers, Esquire, Deputy Attorney General
Jason E. Walker, Delaware Correctional Center

¹*State v. Quill*, 1999 Del. Super. LEXIS 514 (citing *State v. Bordley*, 1989 Del. Super. LEXIS 435.).

²DEL. SUPER. CT. CRIM. R. 61(d)(3).

³*Quill*, 1999 LEXIS at *3-4.

⁴*State v. Doran*, Del. Super., Nos. IN 90-08-1791, IN 90-08-1792, Barron, J. (June 12, 1992) (Order) (following the Court’s decision in *Bordley*, the Court denied the defendant’s motion holding that the motion was “general and unsupported by any specific claim or facts.”).

⁵*Bordley*, 1989 LEXIS at *4, (holding that where the “[d]efendant offers no factual basis or clear identification of any fundamental rights that were violated,” a court may deny a defendant’s motion for transcript of record.).

⁶*State v. Ketchum*, 2002 Del. Super. LEXIS 26 at *2.

Deborah L. Webb, Chief Deputy Clerk, Supreme Court
Kathleen Feldman, Chief Superior Court Reporter